

ASSEMBLY BILL

No. 1615

Introduced by Assembly Member Klehs

February 22, 2005

An act to add Section 15627 to, and to repeal Part 10 (commencing with Section 15700) of Division 3 of Title 2 of, the Government Code, and to add Section 20.5 to the Revenue and Taxation Code, relating to governmental organization.

LEGISLATIVE COUNSEL'S DIGEST

AB 1615, as introduced, Klehs. Governmental reorganization: tax functions.

(1) Existing law provides for the establishment of the Franchise Tax Board and prescribes its various powers and duties regarding the administration of state personal income taxes and corporation franchise and income taxes. The State Board of Equalization collects and administers various taxes and fees imposed under specified programs and serves as an arbiter for the resolution of tax disputes involving the imposition of fees and taxes, including those taxes administered by the Franchise Tax Board.

This bill would abolish the Franchise Tax Board, and would provide for the transfer of its powers and duties to the State Board of Equalization, operative January 1, 2007.

(2) Existing law imposes, on employers in this state, unemployment insurance taxes that are administered by the Employment Development Department. Existing law also imposes taxes on insurance companies that are administered by the Department of Insurance.

This bill would also provide for the transfer of the tax administrative functions performed by the Employment Development Department

and the Department of Insurance to the State Board of Equalization, operative January 1, 2007.

(3) This bill would require the State Board of Equalization to submit a report to the Governor and the Legislature, on or before June 30, 2006, regarding the board's assumption of the duties of the Franchise Tax Board and the assumption of the tax administration functions of the Employment Development Department and the Department of Insurance, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15627 is added to the Government
2 Code, to read:

3 15627. (a) (1) The board is the successor to, and is vested
4 with, all of the duties, powers, purposes, responsibilities, and
5 jurisdiction of the Franchise Tax Board. However, the statutes
6 and laws under which the Franchise Tax Board existed and all
7 laws prescribing the duties, powers, purposes, responsibilities,
8 and jurisdiction of the Franchise Tax Board, together with all
9 lawful rules and regulations established thereunder, are expressly
10 continued in force.

11 (2) Any action to which the Franchise Tax Board is a party on
12 and before January 1, 2007, will not be abated by operation of
13 law and shall continue in the name of the State Board of
14 Equalization, which shall be substituted for the Franchise Tax
15 Board by the court in which the action is pending. The
16 substitution of parties will not affect the rights of the parties to
17 the action.

18 (3) "Franchise Tax Board" when used in any statute, law, rule,
19 or regulation now in force, or that may hereafter be enacted or
20 adopted, means the board.

21 (b) (1) The board is the successor to, and is vested with, all of
22 the duties, powers, purposes, responsibilities, and jurisdiction of
23 the tax administration functions currently performed by the
24 Employment Development Department and the Department of
25 Insurance. However, the statutes and laws under which the
26 administrative tax functions of the Employment Development
27 Department and the Department of Insurance exist and all laws

prescribing the duties, powers, purposes, responsibilities, and jurisdiction of the administrative tax functions performed by the Employment Development Department and the Department of Insurance, together with all lawful rules and regulations established thereunder, are expressly continued in force.

(2) Any action regarding the administration of the tax functions of the Employment Development Department to which the Employment Development Department is a party on and before January 1, 2007, will not be abated by operation of law and shall continue in the name of the State Board of Equalization, which shall be substituted for the Employment Development Department by the court in which the action is pending. The substitution of parties will not affect the rights of the parties to the action.

(3) Any action regarding the administration of the tax functions of the Department of Insurance to which the Department of Insurance is a party on and before January 1, 2007, will not be abated by operation of law and shall continue in the name of the State Board of Equalization, which shall be substituted for the Department of Insurance by the court in which the action is pending. The substitution of parties will not affect the rights of the parties to the action.

SEC. 2. Part 10 (commencing with Section 15700) of Division 3 of Title 2 of the Government Code is repealed.

SEC. 3. Section 20.5 is added to the Revenue and Taxation Code, to read:

20.5. Any reference hereafter in this code to the "Franchise Tax Board" shall be deemed a reference to the board.

SEC. 4. (a) The executive officer of the State Board of Equalization, with the approval of the members of the board, shall organize its new responsibilities, formerly those of the Franchise Tax Board, in any manner as he or she deems necessary for the proper conduct of the board's consolidated revenue collection, administration, and enforcement functions.

(b) The executive officer of the State Board of Equalization, with the approval of the members of the board, shall organize its new tax administration responsibilities, formerly administered by the Employment Development Department, in any manner as he or she deems necessary for the proper conduct of the board's

1 consolidated revenue collection, administration, and enforcement
2 functions.

3 (c) The executive officer of the State Board of Equalization,
4 with the approval of the members of the board, shall organize its
5 new tax administration responsibilities, formerly administered by
6 the Department of Insurance, in any manner as he or she deems
7 necessary for the proper conduct of the board's consolidated
8 revenue collection, administration, and enforcement functions.

9 SEC. 5. (a) The civil service staff of the Franchise Tax Board
10 shall be transferred to the State Board of Equalization in
11 accordance with the provisions of Section 19050.9 of the
12 Government Code.

13 (b) Any civil service staff of the Employment Development
14 Department that, as a result of this act is required to be
15 transferred to the State Board of Equalization, shall be
16 transferred in accordance with the provisions of Section 19050.9
17 of the Government Code.

18 (c) Any civil service staff of the Department of Insurance that,
19 as a result of this act is required to be transferred to the State
20 Board of Equalization, shall be transferred in accordance with the
21 provisions of Section 19050.9 of the Government Code.

22 SEC. 6. (a) It is the intent of the Legislature in enacting this
23 act to provide a governmental organization that will ensure
24 centralized, effective, efficient, and impartial tax revenue
25 collection, administration, and enforcement for the State of
26 California.

27 (b) In order to effectuate this purpose, it is the intent of the
28 Legislature to do the following:

29 (1) Consolidate the powers and duties of the Franchise Tax
30 Board into the State Board of Equalization, and thereby
31 streamline the functions previously performed by both of those
32 agencies.

33 (2) Consolidate the powers and duties of with respect to the
34 administrative tax functions of the Employment Development
35 Department and the Department of Insurance into the State Board
36 of Equalization, and thereby streamline the functions previously
37 performed by all of those agencies with the functions performed
38 by the State Board of Equalization.

1 (c) It is the intent of the Legislature that this consolidation
2 shall be carried out in the least disruptive manner so as to ensure
3 that tax collections are not adversely affected.

4 (d) It is the intent of the Legislature that the consolidation
5 shall progress as expeditiously as is feasible and economical.

6 SEC. 7. On or before June 30, 2006, the State Board of
7 Equalization shall submit a report to the Governor and the
8 Legislature on the plan for, and the progress of, the board's
9 assumption of the duties of the Franchise Tax Board and the
10 board's assumption of the tax administration functions performed
11 by the Employment Development Department and the
12 Department of Insurance. The report shall include
13 recommendations for legislation that would be necessary to more
14 effectively achieve the efficiencies and purposes intended by this
15 act and shall include, but not be limited to, the following:

16 (a) (1) A strategic plan to facilitate the orderly assumption by
17 the board of all duties and responsibilities of the Franchise Tax
18 Board, including the identification of critical issues, including,
19 but not limited to, the consolidation of computer systems,
20 telecommunications, and office space.

21 (2) A strategic plan to facilitate the orderly assumption by the
22 board of all tax administration duties and responsibilities of the
23 Employment Development Department and the Department of
24 Insurance, including the identification of critical issues,
25 including, but not limited to, the consolidation of computer
26 systems, telecommunications, and office space.

27 (b) Identification of those functions performed by the
28 Franchise Tax Board and the tax administration functions
29 performed by the Employment Development Department and the
30 Department of Insurance that are readily conducive to
31 consolidation or centralization into the board, including, but not
32 limited to, administrative functions, document processing,
33 remittance cashing, public service, collection, and physical
34 equipment and facilities.

35 (c) Identification of administrative functions that, because of
36 statutory conflicts or inconsistent administrative processes of the
37 Franchise Tax Board and the State Board of Equalization, cannot
38 be readily consolidated into the board.

39 (d) Identification of administrative functions that, because of
40 statutory conflicts or inconsistent administrative processes of the

1 Employment Development Department and the State Board of
2 Equalization, cannot be readily consolidated into the board.

3 (e) Identification of administrative functions that, because of
4 statutory conflicts or inconsistent administrative processes of the
5 Department of Insurance and the State Board of Equalization,
6 cannot be readily consolidated into the board.

7 SEC. 8. (a) No contract, lease, license, or any other
8 agreement to which the State Board of Equalization or the
9 Franchise Tax Board is a party shall be void or voidable by
10 reason of this act, but shall continue in full force and effect, with
11 the State Board of Equalization assuming all of the rights,
12 obligations, and duties of the Franchise Tax Board. That
13 assumption by the State Board of Equalization may not in any
14 way affect the rights of the parties to the contract, lease, license,
15 or agreement.

16 (b) No contract, lease, license, or any other agreement to
17 which the State Board of Equalization or the Employment
18 Development Department is a party shall be void or voidable by
19 reason of this act, but shall continue in full force and effect, with
20 the State Board of Equalization assuming all of the rights,
21 obligations, and duties of the Employment Development
22 Department. That assumption by the State Board of Equalization
23 may not in any way affect the rights of the parties to the contract,
24 lease, license, or agreement.

25 (c) No contract, lease, license, or any other agreement to
26 which the State Board of Equalization or the Department of
27 Insurance is a party shall be void or voidable by reason of this
28 act, but shall continue in full force and effect, with the State
29 Board of Equalization assuming all of the rights, obligations, and
30 duties of the Department of Insurance. That assumption by the
31 State Board of Equalization may not in any way affect the rights
32 of the parties to the contract, lease, license, or agreement.

33 SEC. 9. (a) On and after January 1, 2007, the unencumbered
34 balance of all money available for expenditure by the Franchise
35 Tax Board in carrying out any functions transferred to the State
36 Board of Equalization by this act shall be made available for the
37 support and maintenance of the State Board of Equalization. All
38 books, documents, records, and property of the Franchise Tax
39 Board shall be transferred to the board.

1 (b) On and after January 1, 2007, the unencumbered balance
2 of all money available for expenditure by the Employment
3 Development Department in carrying out any functions
4 transferred to the State Board of Equalization by this act shall be
5 made available for the support and maintenance of the State
6 Board of Equalization. All books, documents, records, and
7 property of the Employment Development Department, relative
8 to the tax administrative functions of that department, shall be
9 transferred to the board.

10 (c) On and after January 1, 2007, the unencumbered balance of
11 all money available for expenditure by the Department of
12 Insurance in carrying out any functions transferred to the State
13 Board of Equalization by this act shall be made available for the
14 support and maintenance of the State Board of Equalization. All
15 books, documents, records, and property of the Department of
16 Insurance, relative to the tax administrative functions of that
17 department, shall be transferred to the board.

18 SEC. 10. Sections 1 to 5, inclusive, of this act shall become
19 operative on January 1, 2007.